

# CORRESPONDENCE/MEMORANDUM

Department of Natural Resources

DATE: May 1, 1995  
TO: Paul Didier - SW/3  
FROM: Paul Huebner - SW/3 PH  
SUBJECT: Solid Waste Program Plan Review

Attachment I

I'd like to take this opportunity to present my thoughts on why landfill plan review should remain detailed, how we could streamline plan review in general, and why responsibility for plan review relating to landfill siting and design should remain a central office responsibility. Let me say up front that I respect the thoughts that went into the recommendations some of the District Program Supervisors have made to you on these important issues and I believe they are truly motivated by wanting to improve the Department's ability to achieve our mission. But I feel it's important to put the counter-arguments on the table before any decision is made on these issues; I also want to identify some points of agreement.

## Landfill Plan Review Detail

Since the purpose of plan review is first and foremost to prevent pollution, the level of plan review necessarily depends on the potential a project has to impact the public's health, welfare, and the environment. I enthusiastically support comments you are receiving suggesting we need to place more emphasis on landfill construction oversight, but now is not the time to develop a false sense of security and significantly decrease the effort we currently put into landfill siting and design plan review. With fewer, larger, and more highly engineered landfills being built, detailed plan reviews are more important than ever. We still routinely find geological information that has been incorrectly interpreted and unacceptable or flawed design details that would be missed if a detailed review had not been conducted. Therefore, we need to proceed cautiously lest we have our staff being forced to stand and watch a landfill be built in a poor location or in strict adherence to cursorily reviewed and hastily approved, inadequate designs and know that the landfill will likely fail in the future without being able to do anything about it until it does.

Those of us who have years of technical plan review experience know there is no substitute for detailed plan review for documenting why and under what conditions a landfill should be approved by the Department. Some of us also have had the not-so-pleasant experience of being called on as an expert witness and know there is no other way to defend ourselves in a judicial proceeding concerning a landfill without reviewing in detail all of the information submitted to the Department.

Many of our customers who express concern about the level of detail we apply to landfill siting and design plan review would be the first to criticize us for not identifying problems and deficiencies up front before they developed into major hurdles to an approval or damage to the environment after a proposal was approved. The general public expects us to perform detailed plan

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reviews and a tremendous public perception problem with landfill neighbors would develop if we did what's perceived as " cursory " reviews, or if we simply rely on the landfill applicants and their consultants.

### Streamlining Plan Review

Keeping in mind the realities of the fiscal times and the likelihood of not receiving additional resources in at least the near future, the following changes would help streamline solid waste plan review in general:

- Plan review activities for non-landfill projects that have a lesser chance to cause significant impacts could be targeted for substantial reduction. Both the amount of information we request and the level of plan review effort we expend on some of these projects should be substantially reduced. As some of the District Program Supervisors have recommended, it may even be possible to immediately approve or deny such projects after a brief meeting with the applicant and a field inspection to ensure our location criteria are met. Our field staff, Lakshmi, and Gene Mitchell are more familiar with the non-landfill projects so I'll leave it to them to identify the types of projects for which such expedited measures can be successfully implemented without creating a lot of controversy or compromising environmental quality.
- A number of the draft revisions to the NR 500 series of codes have been welcomed by the NR 500 Technical Advisory Committee and should lead to more efficient and effective plan review and greater customer satisfaction.
- Too much of our time is currently spent helping landfill applicants design their projects to make them approvable. This certainly can be perceived as necessary to facilitate public and private partnerships, but experience shows that it encourages consultants to submit trial balloon designs and incomplete reports. Even more important, it has misled the general public and some applicants into believing the Department is responsible for a facility if it causes environmental damage in the future because as they see it, we helped design it, approved it and licensed it.
- Our approval formats should be shortened. I have already proposed eliminating the detailed project description section of ISR opinion and feasibility determination letters.
- Duplication of plan review oversight should be eliminated wherever possible. To help accomplish this, lines of authority and work responsibilities could be more clearly defined and full review and approval responsibility should be given to whoever has the lead for a project (District or central office). If successfully implemented, I and others believe the time savings would be tremendous and it would allow us to better serve our internal and external customers.

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## Responsibility for Landfill Siting and Design Plan Review

I firmly believe landfill siting and design plan review can best be performed by a centralized group of professionals who collectively can draw on a great depth of experience. My reasoning is as follows:

- The performance of most cleanups can be judged in a relatively short time scale -- is it working, or isn't working? Perhaps a performance-based standard favors decentralization of most cleanup programs, because it's helpful to be able to monitor a cleanup system closely and frequently. However, a performance standard is not nearly as appropriate for landfill siting and design. It's a much longer term effort. Poor siting decisions or mistakes made in the design may take decades to result in failed performance. Since it's so much more difficult to judge landfill performance during the first, say, 10 years, it's essential to thoroughly review siting and design to minimize the risk to the environment. The need for such a thorough review favors a centralized review function where the necessary expertise can develop over time within a group of professionals who individually have unique training and abilities. As a whole, the Solid Waste Management Section (SWMS) has been able to develop this expertise, and that is one of the primary reasons Wisconsin's Solid Waste Program is recognized as one of the best, if not the very best, in the nation.
- To ensure consistency and to maintain an equal footing with those we regulate, a critical mass of professional plan reviewers also needs to be maintained in a central location where they can frequently interact "face to face" with each other and with their direct supervisors who have significant technical plan review experience and the appropriate technical background. The four unit leaders in the SWMS have a combined 60+ years of technical plan review experience in the Solid Waste Program. All four of us are also professionally registered and recognized nationally as experts in our field.
- Landfill siting and design plan review requires frequent decision-making on whether an investigation method or design feature is approvable. Often the decision hinges on whether we have allowed something in the past, whether one of us has enough relevant experience to know that it will work, and how our decision will affect other facilities statewide. A centralized plan review group is much more efficient at making these kinds of decisions.
- Decentralized plan review staff wouldn't be able to meet with their counterparts frequently enough to discuss common issues. Besides interacting on a daily basis in the central office, we routinely have staff meetings and technical sessions. Similar statewide gatherings would not only be less efficient and rob staff of productive work time, but would also be very expensive and a poor substitute for the necessary routine "face to face" interaction now accomplished in the SWMS.
- As you know, we recently have been dealing with 3 independent landfill exemption requests from the 300-foot setback to a navigable stream. I realized all 3 requests were very similar only during one of our staff

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meetings. The 3 sites are in different districts and have been handled somewhat differently by the Water Regulation staff in those districts. I don't believe anyone would have been aware that we had 3 comparable requests in house had the plan review staff involved been decentralized. This is only one example of a consistency issue that we are able to handle successfully now, but which would create the potential for huge problems if landfill siting and design plan review were decentralized.

- From 15 years of technical plan review experience, I personally can tell you that a plan reviewer becomes more efficient and effective by routinely reviewing such reports. If the review of landfill siting and design reports is decentralized, the plan review skills of those staff in a District that receives infrequent siting proposals are going to get rusty. In addition, such staff would likely end up doing more non-engineering and hydro work. This is not an efficient use of such expertise.
- There are currently 19 FTE in the central office dedicated to solid waste plan review and policy purposes (OWAT identifies the need for 45 FTE). Due to the budget cuts and reallocation commitments, the SWMS will be losing some FTE's. Decentralization of the remaining plan reviewers would cripple our ability to effectively deal with fluctuating workload priorities, staff turnover, family leave, or extended illness. In addition, decentralization could cause a significant loss of experience and expertise at least over the short term since a number of our plan review staff would likely seek other employment opportunities.
- When reviewing a landfill siting and design proposal, we have to walk a tightrope anchored on one end by the landfill proponents and on the other end by the landfill opponents. Both customers have the ability to wobble the cable and it's imperative that we remain absolutely neutral and avoid falling into the trap of developing too close a relationship with either customer. Experience has proven that such a delicate balance can best be maintained in the central office.
- Finally, successful customer service means more than being physically present to shake someone's hand. In the context of environmental regulations, it means having regulations that are understandable, consistently and predictably applied, and that are implemented in a timely fashion. Centralized solid waste plan review reinforces all these aspects of customer service.

Paul, it may seem that I am simply trying to protect my turf by arguing for centralized plan review in this manner. It's sometimes hard to judge one's own motivations objectively, but I'm confident that, if I thought we could do a better job protecting the environment and serving our customers by decentralizing landfill siting and design plan reviews, I'd be pushing for it as hard as anyone. Bottom line is, we have a healthy program here - not perfect, but healthy - and I'm not convinced that radical transplant surgery passes the fundamental law of medicine, "First, do no harm."

cc: George Meyer - AD/5      Kevin Kessler - SW/3  
Susan Sylvester - AD/5      Lakshmi Sridharan - SW/3